

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ROBYN KELLY,  
Plaintiff,

v.

CITY OF SAUSALITO, et al.,  
Defendants.

Case No. [22-cv-04671-EMC](#)

**ORDER GRANTING PLAINTIFF'S  
APPLICATION TO PROCEED *IN*  
*FORMA PAUPERIS*, AND DENYING  
PLAINTIFF'S MOTION FOR A  
TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION**

Docket Nos. 2, 4, 5

Currently pending before the Court is Ms. Kelly's application to proceed *in forma pauperis* and her motion for a TRO and preliminary injunction.

The Court has reviewed Ms. Kelly's financial affidavit. Based on that affidavit, it **GRANTS** her application to proceed *in forma pauperis*. Furthermore, because Ms. Kelly has raised a claim implicating *Martin v. Boise*, 920 F.3d 584 (9th Cir. 2019), the Court orders the U.S. Marshals Office to serve her summons and complaint on Defendants.

Turning to Ms. Kelly's motion for a TRO and a preliminary injunction, the Court denies the request for relief but without prejudice. Ms. Kelly essentially objects to the closing of the Marinship Park encampment. She asserts that, once the camp is closed, then she will likely be arrested for unlawful daytime or overnight camping pursuant to Resolution No. 6009. At this juncture, however, it appears that Ms. Kelly has an alternative housing situation – *i.e.*, the City has found a spot for her at the Muir Woods Lodge. However, should that situation change and Ms. Kelly not have temporary or permanent housing, the City and its agents should be mindful of the holding in *Martin v. Boise* – *i.e.*, “an ordinance violates the Eighth Amendment insofar as it

1 imposes criminal sanctions against homeless individuals for sleeping outdoors, on public property,  
2 when no alternative shelter is available to them.” *Id.* at 604.


3 Finally, to the extent Ms. Kelly has asked for hearings to take place via Zoom, that is the  
4 current practice for the Court’s civil cases.

5 The Court **DENIES** Ms. Kelly’s motion for a TRO and preliminary injunction.

6 This order disposes of Docket Nos. 2, 4, and 5.

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8 **IT IS SO ORDERED.**

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10 Dated: August 22, 2022

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13 EDWARD M. CHEN  
14 United States District Judge  
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